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February 27, 2020

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By ECF

Hon. Judge James Donato  
United States District Court  
450 Golden Gate Avenue  
Courtroom 11, 19th Floor  
San Francisco, CA 94102-3489

*In re Capacitors Antitrust Litigation, Nos. 17-MD-2801, 14-CV-3264 (N.D. Cal.)*

Dear Judge Donato:

In light of the recent Holy Stone settlement and Defendants' further consideration of an appropriate verdict form while preparing for trial, Defendants write to alert the Court before today's Final Pretrial Conference that we sent a revised draft of our previously-proposed verdict form to the Direct Purchaser Plaintiffs ("DPPs") on the afternoon of February 26. The revised verdict form is attached in a clean copy and with track changes to identify the revisions. Defendants deleted some questions and revised other questions.

As we explained to the DPPs, in thinking further about the verdict form, Defendants have come to agree with DPPs that each of the defendants DPPs claim participated in the alleged conspiracy—including Settling Defendants—needs to be identified in the verdict form, and so we have added each of them to the attached draft. DPPs listed each Defendant, including Settling Defendants, in their proposed verdict form. Importantly, however, Defendants continue to object to the manner in which DPPs identified the Settling Defendants in their proposed verdict form. DPPs include them in the body of their Question 1, which implies to the jury that they need not determine whether each of the alleged conspirators participated in the alleged conspiracy—and worse, it suggests to the jury that the Settling Defendants' alleged participation is presumed. Because DPPs are seeking damages that include Settling Defendants' sales under joint and several liability (and the Settling Defendants' sales comprise a very large portion of the damages DPPs seek), the jury is required as a matter of law to decide the participation of each alleged conspirator, including each Active Defendant and each Settling Defendant. The attached revised verdict form is intended to capture this necessary determination by the jury for each alleged conspirator.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Bonnie Lau", with a stylized flourish at the end.

Bonnie Lau

cc: All Counsel (by ECF)